

Remarks :

Applicant thanks the Examiner for his thorough case examination and submits the following:

Claim Rejections – 35 USC 102 (b)

Examiner rejected claims 10-18 as being anticipated by Atzberger (5,140,759). Atzberger discloses a pneumatic device for excavating and removing material such as soil. Atzberger's intention is to patent a vacuum hose with an arrangement of air nozzles arranged around the inside of the vacuum hose inlet. As shown in figure 2 the air nozzles are located around the inside of the vacuum conduit inlet. As noted on lines 64-68 of his "Description of the Illustrated Embodiment" "the nozzles 16 and 17 are located along the periphery of the housing 5 so that the annular member 12 has an unobstructed central opening of substantial size, thus minimizing clogging of the device." Atzberger purposely teaches that the inlet inside diameter 12 must be of a substantially large size so as not to reduce the inlet opening size below that of the vacuum hose or conduit. Atzberger teaches just the opposite of the current patent application. Atzberger's vacuum conduit inlet circumference is as large or larger than the vacuum

hose so as not to clog the inlet to the vacuum conduit . Atzberger's air nozzles are located on the inside of the vacuum conduit inlet. Atzberger's vacuum conduit inlet does not have any indentions in its circumference. Atzberger does not want to cause a clogging effect at the inlet of the vacuum conduit. The smallest diameter of his venture is as large as his vacuum hose. The suction end of his

The objective of the current patent application is to use an indentation or offset in the vacuum conduit inlet circumference in order to cause clogging at the entrance of the vacuum conduit of any object that is too large in size to easily continue through the remaining vacuum hose or conduit. Dislodging a rock stuck half way through a vacuum hose is very time consuming. It is easier and quicker to remove a large rock from the inlet of the vacuum conduit. A second objective of the current patent application is to swedge or use a bell reduction in the vacuum conduit inlet circumference to restrict objects that are too large in size to easily continue through the remaining vacuum conduit. A third objective of the current patent application is to use the indentation or offset in the vacuum conduit inlet circumference as a location for positioning a water nozzle or air nozzle on the outside of the vacuum conduit inlet circumference. A fourth objective of the current patent application is for the nozzle to be a water spray

nozzle positioned so as to direct the pressurized water against the dirt that is to be emulsified and vacuumed.

Atzberger fails to disclose a restriction at the inlet of the vacuum conduit. Atzberger fails to disclose a means of managing a clogging situation. Atzberger fails to disclose a water nozzle. Atzberger fails to disclose a nozzle located on the outside of the vacuum conduit circumference. Atzberger fails to disclose an indentation or offset in the vacuum conduit circumference whose purpose is to both restrict large objects from entering the vacuum hose and to house a nozzle.

Hindsight is 20-20. It is anticipated and obvious to a 12 year old today, that the earth is round. Given the example of a round moon, a round sun and the continuing disappearance of the horizon as one traveled across a desert or sailed across a body of water, it would be obvious to one skilled in the field of navigation and or astronomy to anticipate that the earth is round, however it is obvious that this fact alluded man even after thousands of years of study & observation.

“A claim is anticipated [under 35 USC 102 (b)] only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” Verdegaal

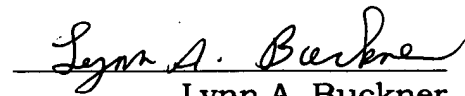
Bros. vs. Union Oil Co. of California, 2 U.S.P.Q. 2d1051, 1053

(Fed. Cir. 1987), (emphasis added). See M.P.E.P. 2131.

While an embodiment of the invention has been illustrated, it should be understood that numerous variations and modifications will undoubtedly become readily apparent to those skilled in the art. Accordingly, the precise design and structure of the invention should not be limited to that depicted in the drawings and description, but rather is defined in the claims appended hereto.

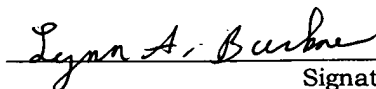
It is believe that claims 10-18 are in a condition of allowance.

Respectfully submitted,


Lynn A. Buckner

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Application No. : 10/810,908

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Title : Vacuum Excavation Suction Hose Attachment

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Receipt is hereby acknowledged of the papers filed as indicated in connection
With the above identified utility patent application.
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